

DECISION



15663 Wetherpoon
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

[Protest Against Forest Service Use of Competitive Negotiation Procedures]

FILE: B-199348

DATE: December 15, 1980

MATTER OF: Umpqua Surveying Company

DIGEST:

Where performance of preliminary road location survey does not require architectural and engineering (A-E) services and is independent of A-E project, competitive procurement procedures may be used in lieu of selection method prescribed in Brooks Bill, 40 U.S.C. § 541 et seq. (1976).

Umpqua Surveying Company (Umpqua) protests the use of competitive negotiation procedures for the procurement of preliminary road location surveying (P-Line surveying) of several areas of the Umpqua National Forest. The request for proposals (No. R6-15-80-67) was issued by the United States Department of Agriculture, Forest Service, Umpqua National Forest (Forest Service). Umpqua argues that the surveying should have been procured in accordance with the procedures set forth in the Brooks Bill, 40 U.S.C. § 541 et seq. (1976), which states the Federal Government's policy in the procurement of architect-engineer (A-E) services. Umpqua claims that the surveying involves the development and alternation of real property and, therefore, is an A-E service.

Umpqua protested initially to the Forest Service which denied the protest relying on our decision in Ninneman Engineering-reconsideration, B-184770, March 9, 1977, 77-1 CPD 171. In Ninneman we found that both the language of the Brooks Bill and its legislative history indicate that the Bill's procedures apply whenever (1) the controlling jurisdiction requires an A-E firm to meet a particular degree of professional capability in order to perform the desired

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services, or (2) the services "logically or justifiably" may be performed by a professional A-E firm or its employees, and are "incidental" to "professional" A-E services, which clearly must be procured by the Brooks Bill method.

Regarding the first criterion above, it is clear that the P-Line surveying here is not a service which must be performed by an A-E firm. The solicitation required only that the contractor have a land surveyor licensed in Oregon, and the Oregon licensing requirements for land surveyors are separate and distinct from licensing requirements for architects and engineers. Concerning the second requirement, while P-Line surveying could logically or justifiably be performed by an A-E firm, the Forest Service states that the surveying here is "completely independent of any actual A-E project and the protester has not argued otherwise." Therefore, it is not incidental to professional A-E services which must be procured by the Brooks Bill method.

In summary, the P-Line survey here, which did not require performance by an A-E firm and which was not incidental to an A-E project, could properly be procured under competitive statutes and regulations in lieu of the selection method prescribed in the Brooks Bill.

The protest is denied.


For the Comptroller General
of the United States